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An Answer to 1804 Dollar and Eagle Challenges

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ANA 4624 ANA 62224

James C. Risk in his article "Further Thoughts about the 1804 Class I Dollar and Proof Eagle" (*The Numismatist*, November, 1969) raises some interesting questions with regard to our opinions. It seems that anyone who writes about the 1804 matter takes a "Risk" of being challenged as the controversial subject leads all numismatic topics in quantity of published output. Mr. Risk's commentary reminds us of the old build-up and knock down technique where, for example, one woman greets another: "That's a lovely dress you're wearing – it's too bad they didn't have your size."

"Further Thoughts" stated that it might provide a little fun and a target for somebody to shoot at. We know that readers realize it is only numismatic theories and conclusions that are being shot at, and not the individuals who express them. We waited until Robert W. Julian had taken his turn at the range in "Origin of the 1804 Dollar" (*The Numismatist*, January, 1970) with its postscript commentary rejecting the theory of the Risk article. It is now our turn to "take arms against" Mr. Risk's "sea" of assertions, and, we trust, by adequately "opposing, end them."

"Further Thoughts" is primarily devoted to convincing the reader that the 1804 Class I Dollar and the 1804 Proof Eagle were legal by virtue of the Presidential Order of 1834 even though they were coined in 1834. On the other hand, *The Fantastic 1804 Dollar*, (Racine, 1962), "Updating the Fantastic 1804 Dollar" (*Whitman Numismatic Journal*, September, 1964) and *The U. S. Mint and Coinage* (New York, 1966) construe those coins as being issued in violation of law. The illegality of the 1804 Class I Dollar is based upon a violation of the Act of April 2, 1792 which provided that "the year of the coinage" be placed on each coin. The illegality of the Proof 1804 Eagle is based upon the same violation and in addition upon the fact that it did not conform with the June 28, 1834 Act requiring eagles to contain 232 grains of gold. Instead, it contained 247½ grains, in conformity with the obsolete prior standard. The presidential directive of 1834, as we have pointed out, actually did not and legally could not authorize the violation of any act of Congress. We have also shown that the date of the coins was not specified in the Presidential Order, nor were any denominations not then in use. It was suggested that if the director of the Mint had wished to include a dollar and an eagle (even though neither was in circulation in 1834) he could have obtained them from banks or exchange brokers and would not have had to make up new dies for those denominations. If he did decide to make new dies for each coin he could have dated them 1834.

We must assume that there is no disagreement that the Class II and Class III 1804 Dollars were unofficial restrikes secretly made by mint officials and/or other employees without any authority whatsoever, and for private gain or devilment.

James Risk comments (p.1524) that prior to 1962 "It should have been

plain to anyone who had the slightest familiarity with coins * * * that the very fabric of the dollar showed it simply was not struck in 1804." This casual dismissal of over a century of research and controversy concerning the coin is followed by comment that many of those who felt otherwise "should have known better." It appears to us that James Risk has the advantage of using hindsight or retroperception. No auction catalogue description has ever mentioned the fact of antedating. Mint officials have, moreover, executed affidavits to the contrary, and these have repeatedly been republished. Numismatists had battled the issue furiously until the Siam set was revealed and *The Fantastic 1804 Dollar* was written. It certainly does seem strange that Mr. Risk did not urge the publication of his "fabric" information by the firm with which he is affiliated when it might have been useful in the Davis-Graves Sale Catalogue (1954) and in the Fairbanks Sale Catalogue (1960). In fact, even after *The Fantastic 1804 Dollar* was published, the five page description of the same 1804 Class III Dollar in the Wolfson Sale (1963) did not even mention the antedating. James Risk states that there is no essential difference in law (p.1526) between (1) the striking of coins with left-over dies of the previous year in the course of regular mint business and (2) the striking of coins with newly made dies antedated by thirty years. As to the use of the previous year's dies, he points out that "Numismatic historians have not made an issue of this type of illegality." We agree that the mint, too, recognized the illegality of the use of previous year's dies and went to the trouble of overdating left-over dies in many instances both before and after the year 1804. By showing that the mint, for reasons of practicality, occasionally reused dies from the previous year, Mr. Risk proposes to justify the thirty year antedating. The old adage, "Two wrongs don't make a right" answers the problem well. They both are illegal, and beyond this there is a fundamental difference in the type of illegality. This difference is the matter of intent. The use of the previous year's dies was done openly, and in the course of regular mint business. The thirty year antedating was not disclosed nor was there a record made of the number of extra pieces coined. The subsequent conduct of those involved in the antedating was characterized by obvious attempts to cover up their previous misconduct. Jacob R. Eckfeldt and William E. DuBois illustrated the 1804 dollar and disclosed its existence for the first time in their manual published in 1842 and refer to the illustration as a 1797-1805 type. They were both working at the mint in 1834 when the 1804 pieces were made, and DuBois, particularly, was an informed numismatist. Yet, he pretended that the 1804 dollar was what it purported to be when, in 1843, he traded one to Matthew A. Stickney, a collector. The affidavits and statements of DuBois and other mint officials at a later date furthered the concealment of the antedating. We believe that illegality with an intent to deceive and with concealment of what took place is much more culpable than illegality done openly and under the pressure of the necessities of official mint production.

The dating of coins has never been treated casually in the policies of the mint. Today it would be out of the question for a coin to be officially minted with a die bearing the date of a prior year. If the laws as to coin dates were interpreted with "simplistic exactness" (p. 1525) James Risk feels that this would have produced too many illegalities in dating. However, in the 1834 occurrence, it was not the laws, but some of the employees then at the mint who were at fault. For, as an official bulletin

of the U. S. Mint issued on July 1, 1866 stated:

> **"Pieces struck out of date, bear a falsity on their face, and have not the interest or value of a synchronous issue. An uncertainty is also kept up, as to the extent of supply. And in the case of regular coinage, they so far falsify the Mint Records and Tables, as to the amount of coinage and delivery, or as to the very fact of such and such pieces having been coined in any given year."**

and the first item under Rules reads:

> **"No coins, nor pattern pieces, shall be struck after the year of their date; and to insure this, the dies shall be rendered unfit for that use."**

Is James Risk prepared to carry his charge of "witchhunting" back to the mint itself?

Mr. Risk asks a very important question as to falsity. He states that our "whole argument rests on the contention that the Class I dollars and the eagles were false coins" and then goes on "to ask: 'false' in relation to what?" (p.1529). The answer is, of course, that the coins are false in relation to what they purport to be, namely, coins struck in the year 1804, which they are not. In the case of the 1804 dollar it is doubly false because it purports to be something which never even existed. These two coins are a prominent pair of "falsies."

The basic argument of James Risk is that the Presidential Order for two sets of coins for diplomatic purposes was lawful, was a "command" (p. 1527) and was correctly interpreted by Director Moore (p.1536) thereby making the coins legal. We certainly have not contended that the Presidential Order was in any way improper or that it should not have been followed. The fact which James Risk does not evaluate fully is that the decision to antedate the 1804 dollars and 1804 eagles was not made by the President or by the secretary of State, but by either Mint Director Moore or his employees. No specific date or denomination was prescribed by the Presidential Order. No new coins had to be struck at all if the proper denominations of any dates had been assembled. It was the mint personnel who violated the law by deciding the date and weight of the 1804 pieces. There was no implication by either of us that either the President or the secretary of State had any knowledge of what was prepared, and thus the innuendo of our accusing the President of breaking the law (p.1528) is meaningless. The law was broken when the mint did not follow both the Presidential Order and the existing legislation. They both could have been followed. Because they failed to follow the existing legislation the pieces were illegal.

As to Jefferson's 1806 Order, it can be pointed out that the President merely confirmed and continued a decision of the director of the Mint to suspend coinage of the dollar denomination. The director of the Mint had actually suspended such coinage in 1804. The director's responsibilities included "the chief management of the business" of the mint and he was only obligated by law to coin any specific denomination "from time to time." The director of the Mint may have desired to obtain formal ratification of his discretionary decision from his executive superior, the President. The director and the President were each acting in their executive capacity in performing as they did. The Presidential Order was complied with until it was suspended in 1831 and thereafter the decisions were again made at the director's discretion. There was no Presidential Order as to discontinuance of the coinage of eagles during the year 1804 and until recommencement of

eagle coinage in 1838 and this was accomplished by discretionary decisions of the respective directors of the Mint from time to time.

To support the theory that Presidential Orders relating to coinage can be interpreted to override an Act of Congress, James Risk could not have used a more inappropriate example. Referring to Washington's Order in 1796 changing the weight of copper coinage (p.1527), Risk states "No one at the time questioned his right to do so." Risk seems to have been unaware that under Section 8 of the Act of March 3, 1795 the President was "authorized whenever he shall think it fit for the benefit of the United States, to reduce the weight of the copper coin * * * ." Naturally no one questioned the President's Order because he was specifically authorized by statute to order this change.

The opportunity to date a dollar 1834 if a new dollar coin was to be struck was pointed out in *The Fantastic 1804 Dollar,* and in *"Further Thoughts,"* James Risk contradicts this by saying (p.1534): "It must be remembered that President Jefferson's Executive Order to discontinue the striking of the dollar for circulation as money was still in force. Adopting a purely literal approach to law for the moment I will suggest that for director Moore to invent a new dollar dated 1834 would have illegally conflicted with that order. In preparing an 1804 dollar he remained within the letter of the law as it had been adopted for administration by the executive department of the government."

Assuming that the 1806 order banning dollar coinage was still in effect in 1834, the sheer corruptness suggested by the foregoing is astounding. The explanation indicates that it was a violation of the order to coin a dollar in 1834 dated 1834, yet it was not a violation of the order in 1834 to prepare a dollar antedated to 1804 because the ban on dollars began in 1806. If such logic could be attributed to the then mint employees, it would, in itself, be evidence of connivance and immorality at their crudest. However, Mr. Risk's entire line of reasoning collapses because Jefferson's 1806 order banning dollar coinage was suspended in 1831, as Robert W. Julian has revealed in his "Origin of the 1804 Dollar."

The fact that Jefferson's 1806 order was revoked five years before 1836 destroys another of Mr. Risk's assertions. In referring to Gobrecht dollars of 1836, he states (p. 1529) "Within the Newman frame of reference, however, the Mint did not have the right to strike them at all * * * They not only conflicted with the original coinage law but with Jefferson's order of 1806."

To dream up conclusions based upon what falls within another's frame of reference is a self-destructive argument, particularly when "that other" never even commented on the subject of propriety with regard to the 1836 Gobrecht patterns. Again the balance of the Risk conclusion based upon Jefferson's 1806 order being in force in 1836 is unfortunately "out of order," chronologically, that is.

And we must certainly disagree with James Risk when he further puts words in our mouths and suggests that, according to our own reasoning, we must also condemn patterns because they are struck in conformity with laws not yet enacted. (p.1529) Need we point out that patterns are *just that,* and are *not* coins. They are experiments in artistry and utility and in no way subject to legislation pertaining to circulating money. In addition patterns are dated currently and not antedated. No anticipated laws are even required to justify pattern preparation.

James Risk states that he agrees that when Stickney acquired his Class I 1804 Dollar from the mint in 1843 "the piece had no premium." (p.1536) If Mr. Stickney actually believed that the 1804 dollar he was obtaining was no more valuable than any other dollar date, why was he willing to give in exchange for it a unique 1785 Immune Columbia gold piece, as well as some Pine Tree money and other rarities not in the mint collection? Mr. Stickney was properly defending his piece from being called a restrike when he prepared his statement and disclosed his facts in 1867. We cannot be as naive as Mr. Risk seems to be regarding Stickney's opinion of the value and desirability of a dollar dated 1804 at the time of this famous exchange.

There is another self-deception when James Risk tries to justify Stickney's comment, "I have a genuine Proof Dollar of the United States coinage of 1804." Mr. Risk states that Stickney meant that he had a genuine proof 1804 dollar struck in 1834. (p.1536). If Stickney had meant to say that he had a proof dollar dated 1804, genuinely struck in 1834, he could have said it, but he didn't believe it, and therefore did not deprecate his coin by saying it. A strained misinterpretation of what Stickney did say is more erroneous than the mis-statement the mint officials induced a credulous Stickney to make through their deception.

The facts do not support another of James Risk's collateral arguments. He states (p. 1536) "In 1834 the various forces necessary for the production of numismatic fakes just did not operate because they didn't even exist." Suffice it to say that Carl Wilhelm Becker, who died in 1830, produced copies of rare pieces which were promptly sold as genuine by others, at least 340 different pairs of false dies having been cut during Becker's lifetime. A published illustration of the fictitious Good Samaritan Shilling appeared in 1746 along with other numismatic fakes. To rule out numismatic fakes in 1834 under these circumstances is not very convincing.

Many numismatic writers have reached conclusions which they subsequently wish to change. One must respect the writer who has an open mind and points out his change of position rather than denies or omits it. An article in *The Numismatist* for November, 1962, entitled "New Facts about an Old American Coin" was written by David F. Spink and James C. Risk after they had read "*The Fantastic 1804 Dollar* and its assertions to the effect that the making in 1834 of an 1804 eagle with an improper weight was illegal. Co-author James Risk, in referring to the 1804 Eagle struck in 1834, agreed at that time when he wrote: "It was an illegal piece, however, because it was struck on the old standards," (p. 1447). Now we find a complete reversal of Risk's position in "Further Thoughts" and it might have been more appropriate for him to have pointed out the change than for us to do so.

People who live in glass houses should not throw coins.

☆ ☆ ☆

The "In" Metal

Sixteen denominations of pure nickel and nickel alloy coins were introduced by seven different countries in 1968 to replace coins previously struck in silver.

Present indications are that 25 countries propose adopting or expanding their use of nickel and nickel alloys for coinage in 1969 or 1970. These changes will involve 41 denominations.


A.N.A Convention - Philadelphia
Sept. 29-Oct. 1-1908


A.N.A. Convention
Aug. 9-14-1909
Montreal

CONVENTION BADGES & MEDALS OF THE

by N. Neil Harris
Assistant Historian

1908 and 1909

ANA 08.CB 1 (Actual size)

1908 PHILADELPHIA

ANA 08.CB 1

Pin	A 1891-1906 type Netherlands half cent, (Y-17), reverse showing, mounted in a gold plated disc with rim and attached to a gold plated stick pin. Most of the specimens that were used were dated 1903.
Ribbons	From left to right, three streamers in the colors gold, silver and green. The colors of the ribbons along with the color of the copper half cent represent the colors most prominent in numismatics, green symbolizing paper money. Each ribbon bore an inscription stamped in silver; 1908, on the gold ribbon; ANA, on the silver; and PHILA., on the green ribbon.
Designer	Farran Zerbe
Manufacturer	Unknown
Quantity	Approximately 50
Convention	Hotel Stenton, Philadelphia, Pa., Sept. 28-30, Oct. 1-2.
Host	Professional numismatist, Henry Chapman, Philadelphia, Pa.
Registration	46

In the official convention photograph taken on the steps of the Philadelphia Mint eighteen of the thirty persons can be seen wearing a convention badge as described. Regardless of the estimated maximum quantity of badges issued, the quantity as recorded in the photograph surely can be regarded as a minimum one.

Loan of specimen for photography courtesy of H. G. Spangenberger.